

HOUSE BILL NO. 356

INTRODUCED BY NOONAN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A CURRENT OR FORMER EMPLOYER TO PROVIDE A REQUESTING LAW ENFORCEMENT AGENCY WITH EMPLOYMENT INFORMATION RELATING TO A CURRENT OR FORMER EMPLOYEE SEEKING A PEACE OFFICER POSITION WITH THE AGENCY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Law enforcement agency request that employer or former employer provide information on applicant for peace officer position. (1) A current or former employer may, upon request of a law enforcement agency, provide the following information, if available, to the law enforcement agency regarding a current or former employee who is an applicant for a peace officer position with the law enforcement agency:

(a) the date on which employment began and the termination date if the applicant is no longer employed by the employer;

(b) the compensation provided the applicant;

(c) an application for employment submitted to the employer;

(d) a general statement concerning the applicant's performance evaluations and disciplinary action;

(e) a general statement concerning the applicant's absences and attendance; and

(f) if the applicant is no longer employed by the employer, a statement of whether the applicant:

(i) left voluntarily;

(ii) was terminated by the employer;

(iii) resigned after being told that the applicant would be fired;

(iv) left by mutual agreement because of specific work-related problems; or

(v) had a termination changed to a resignation by mutual agreement.

(2) The request must be in writing, must contain the date by which the response is needed, must be presented to the employer in person by an employee of the law enforcement agency or of a law enforcement agency authorized by the requesting agency to present the request or by certified mail, and must contain the applicant's signed and ~~notarized~~ ACKNOWLEDGED consent to the employer's release of the information. The

1 signed and ~~notarized~~ ACKNOWLEDGED consent is a defense in an action by the applicant arising from a release
2 of information. UPON REQUEST OF THE APPLICANT, THE APPLICANT MUST BE GIVEN A COPY OF THE RELEASED
3 INFORMATION.

4 (3) The law enforcement agency may use the information to assist in determining the suitability of an
5 applicant for employment as a peace officer.

6 (4) The law enforcement agency shall keep the information confidential, except that it may, under the
7 procedure contained in subsection (2), provide the information to another law enforcement agency to which the
8 applicant applies for a position as a peace officer, which shall also keep the information confidential.

9 (5) A private employer who discloses information about an employee or former employee under this
10 section is not liable for civil damages for the disclosure or any consequences related to the disclosure unless
11 ~~the employer purposely, knowingly, or negligently disclosed information that was false. For the purposes of this~~
12 ~~subsection, the definitions of purposely, knowingly, and negligently are those contained in 45-2-101~~ INFORMATION
13 WAS FALSE AND THE EMPLOYER EITHER KNEW THAT THE INFORMATION WAS FALSE OR DISCLOSED THE INFORMATION WITH
14 RECKLESS DISREGARD FOR WHETHER OR NOT THE INFORMATION WAS FALSE.

15 (6) As used in this section, the following definitions apply:

16 (a) "Employer" includes a private employer, the state, and any local government or subdivision of the
17 state.

18 (b) "Law enforcement agency" means any state agency or local government that employs peace
19 officers.

20 (c) "Peace officer" has the meaning provided in 45-2-101.

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22 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
23 integral part of Title 39, chapter 2, and the provisions of Title 39, chapter 2, apply to [section 1].

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